



U.S. Department of Energy  
**Office of River Protection**

P.O. Box 450  
 Richland, Washington 99352

03-TPD-043

APR 21 2003

0301170

Mr. E. S. Aromi, President  
 and General Manager  
 CH2M HILL Hanford Group, Inc.  
 Richland, Washington 99352

Dear Mr. Aromi:

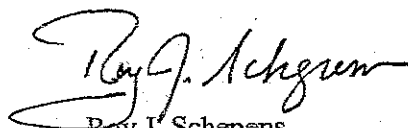
CONTRACT NO. DE-AC27-99RL14047 – AUTHORIZATION AND DIRECTION TO  
 PROCEED

- References:
1. U. S. DOJ and ORP letter from M. J. Zevenbergen and S. D. Stubblebine, to J. E. Shorin, Ecology, "State of Washington, Dep't of Ecology v. United States Dep't of Energy (E.D. Wash.) No. CT-99-5076-EFS," mjz, 90-7-3-05143, dated, April 18, 2003.
  2. Ecology letter from J. E. Shorin to Michael J. Zevenbergen, and S. D. Stubblebine, U.S. DOJ and ORP, "State of Washington, Department of Ecology v. United States Department of Energy, USDC Eastern District of Washington No. CT-99-5076-EFS, dated, April 18, 2003.

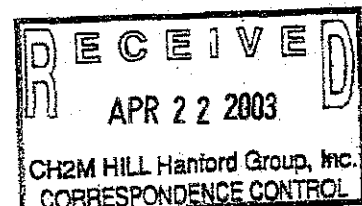
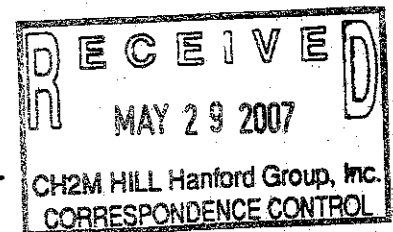
In accordance with the above References, the U.S. Department of Energy, Office of River Protection hereby directs the Tank Farm Contractor, CH2M HILL Hanford, Inc., to proceed with accelerated retrieval of Single-Shell Tanks S-102 and S-112 under the Hanford Federal Facility Agreement and Consent Order M-45-00 milestone series under Contract Number DE-AC27-99RL14047. With this direction, interim stabilization of these two tanks is no longer to be performed so the associated fee in PBI 1 will be reallocated in accordance with Section H.1(d) of the contract.

If you have any questions, please contact me, or your staff may contact Delmar Noyes, Director, Tank Farms Programs and Projects Division, (509) 376-5166.

Sincerely,

  
 Roy J. Schepens  
 Manager

TPD:AJ5



Ref: Attached but not in PMIS

Reference 1



## U.S. Department of Justice

Environment and Natural Resources  
Division

mjz

90-7-3-05143

Seattle Field Office

c/o NOAA/Damage Assessment

7600 Sand Point Way NE

Seattle, WA 98115-0070

Telephone (206) 526-6607

Facsimile (206) 526-6665

Via facsimile and first-class mail

April 18, 2003

Mr. Joseph E. Shorin, Esquire  
Assistant Attorney General  
P. O. Box 40117  
Olympia, WA 98504-0117  
facsimile: (360) 586-6760

Re: State of Washington, Dep't of Ecology v. United States Dep't of Energy  
(E.D. Wash.) No. CT-99-5076-EFS

Dear Mr. Shorin:

This letter is written to memorialize the discussions between the United States Department of Energy ("DOE") and the State of Washington, Department of Ecology ("Ecology") regarding abeyance of interim stabilization requirements for Tanks S-102 and S-112 imposed by the above-referenced Consent Decree so that Energy may instead proceed directly with accelerated retrieval of these tanks under the Hanford Federal Facility Agreement and Consent Order (HFFACO) M-45-00 milestone series. This letter follows (1) DOE letter 02-TPD-066 dated December 19, 2002 from James E. Rasmussen to Michael A. Wilson, Proposed Amendment to Interim Stabilization Consent Decree; Removal of Tanks S-102, S-112, and U-107 from September 30, 2003, (2% Pumpable Liquid Remaining) and September 30, 2004 (Complete Interim Stabilization), Milestones; (2) my March 10, 2003 letter to you transmitting DOE's revised proposed Consent Decree amendment; and (3) numerous informal communications between our offices and our respective clients concerning this matter.

Attached hereto as Exhibit 1 is the proposed language we have discussed and informally agreed upon, subject to public comment, to submit to the Court as an amendment to this decree. The following summarizes DOE's understanding of and, if Ecology concurs, is intended to memorialize the informal agreement we have discussed thus far.

In order to allow DOE to accelerate the retrieval of waste (liquids and solids) from tanks S-102 and S-112, subject to Ecology's review following public comment, DOE and Ecology will jointly submit to the Court the proposed amendment to the Consent Decree attached as Exhibit 1. As described in the proposed amendment, DOE's obligation to interim stabilize these two tanks will be held in abeyance, subject to DOE's progress with retrieval work as specified in the Consent Decree amendment. Concurrent with the approval of the Consent Decree amendment, DOE and Ecology will modify the HFFACO to accelerate existing requirements for retrieval work associated with tanks S-102 and S-112, as specified in the draft HFFACO change package attached hereto as Exhibit 2.

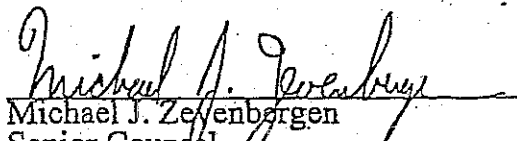
We understand that Ecology has made the determination, in accordance with Section VI.A.1.a of the Consent Decree, that this amendment is acceptable. We understand that Ecology has also determined, in its sole discretion, that this amendment constitutes a significant modification to the Consent Decree, therefore requiring public comment for a period of 30 days. After the close of the public comment period, the Parties shall proceed in accordance with Section VI.A.1.

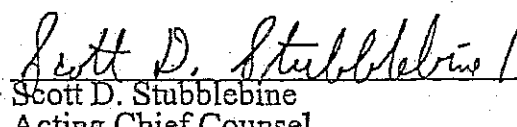
DOE believes that proceeding with accelerated retrieval of tanks S-102 and S-112 during the pendency of the public comment period is in the best interest of overall environmental cleanup of the Hanford Tank Farms and will help to achieve the objectives of both this Consent Decree and the HFFACO. DOE understands that this approach is acceptable to Ecology, provided that in the event that public comments convince Ecology not to proceed with the proposed Consent Decree amendment, DOE will return to interim stabilization activities. DOE understands that it shall be entitled to a determination of good cause, as limited below, for a schedule amendment for the period starting from the date on which DOE commences work to dismantle the equipment necessary to conduct interim stabilization activities and concluding 120 days following the date of DOE's receipt of Ecology's determination that, as a result of such public comment, Ecology will not proceed with the proposed Consent Decree amendment and DOE should resume interim stabilization. The 120 days represents the period of time necessary for DOE to perform work required to disconnect and dismantle equipment necessary for retrieval activities and to re-install equipment necessary to resume interim stabilization activities. DOE understands that this determination of good cause for schedule amendment shall apply only for purposes of tanks S-102 and S-112 and only with respect to the Consent Decree's September 30, 2003 deadline requiring Energy to have removed all but 2% of the pumpable liquid remaining in all tanks addressed by this Consent Decree. It will not affect any other Consent Decree requirement and will not be construed as precedent for other Consent Decree "good cause" determinations. Should Ecology choose not to proceed with the proposed amendment to the Consent Decree, and instead require DOE to resume interim stabilization in tanks S-102 and S-112, DOE shall have until September 30, 2003 plus the time periods described above in which to meet the 2% pumpable liquids remaining deadline for Tanks S-102 and S-112 only. The Parties agree that nothing in this amendment shall preclude Energy from seeking other schedule amendments or other relief to which it may be entitled under the terms of this Consent Decree based upon other instances of good cause, nor shall this amendment prejudice Ecology's response to any such amendments or relief requested by Energy.

As we have discussed, DOE will soon reach a critical schedule point and, therefore, time is of the essence. If you concur with the above, please send confirmation at your earliest convenience.

Sincerely,

Assistant Attorney General  
Environment & Natural Resources Division

  
Michael J. Zepfenbergen  
Senior Counsel  
United States Department of Justice  
Environmental Defense Section  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115  
(206) 526-6607

  
Scott D. Stubblebine  
Acting Chief Counsel  
United States Department of Energy  
Office of Chief Counsel  
P.O. Box 450, MSIN H6-60  
Richland, WA 99352  
(509) 372-0479

enclosures:

Exhibit 1  
Exhibit 2

cc: Mr. Richard Gay, CTUIR  
P.O. Box 638  
Pendleton, Oregon 97801

Mr. Russell Jim, Manager  
Environmental Restoration/Waste Mgmt Program  
CONFEDERATED TRIBES and BANDS  
of the YAKAMA NATION  
2808 Main Street  
Union Gap, Washington 98903

Mr. Ken Niles  
Oregon Dept. of Energy  
625 Marion N.E.  
Salem, Oregon 97310-0830

Mr. Pat Sobotta, Director  
Environmental Restoration/  
Waste Management Program  
Nez Perce Tribe  
P.O. Box 365  
Lapwai, Idaho 83540-0365

Ms. Laura Cusack  
State of Washington  
Department of Ecology  
1315 W. Fourth Ave  
MSIN: B5-18  
Kennewick, Washington 99336

Mr. Jeff Lyon  
1315 W. Fourth Ave  
MSIN: B5-18  
Kennewick, Washington 99336  
facsimile: (509) 736-3030

Ms. Suzanne Dahl  
1315 W. Fourth Ave  
MSIN: B5-18  
Kennewick, Washington 99336

Mr. William Dixon  
2355 Stevens Drive  
MSIN: R1-51  
Richland, Washington 99352

Mr. Moussa Jarayssi  
P.O. Box 450  
MSIN: H6-03  
Richland, Washington 99352

Mr. James E. Rasmussen  
P. O. Box 450  
MSIN: H6-60  
Richland, Washington 99352

Mr. John H. Swailes  
P.O. Box 450  
MSIN: H6-60  
Richland, Washington 99352

Mr. Woody Russell  
P.O. Box 450  
MSIN: H6-60  
Richland, Washington 99352

Ms. Jackie L. Hanson  
P.O. Box 450  
MSIN: H6-60  
Richland, Washington 99352

Mr. Michael A. Wilson, Program Manager  
Nuclear Waste Program  
State of Washington  
Department of Ecology  
1315 W. Fourth Avenue  
Kennewick, Washington 99336  
facsimile: (360) 407-7152

EXHIBIT 1\*

DOE will complete interim stabilization of all 29 single-shell tanks listed above by September 30, 2004, except as provided for below with respect to tanks S-102 and S-112.

In order to allow accelerated retrieval of waste in tanks S-102 and S-112 in lieu of interim stabilization, DOE's obligation to complete interim stabilization of those two tanks is held in abeyance, provided that DOE completes S-102 Initial Retrieval Project Design (per HFFACO milestone M-45-05B) and S-112 Saltcake Waste Retrieval Technology Demonstration Design (per HFFACO milestone M-45-03D) by 5/31/03; completes S-102 Initial Waste Retrieval Project Construction (per HFFACO milestone M-45-05C) and S-112 Saltcake Waste Retrieval Technology Demonstration Construction (per HFFACO milestone M-45-03E) by 3/31/04; and completes Initial Waste Retrieval from Tank S-102 (Per HFFACO milestone M-45-05A) and Full Scale Saltcake Waste Retrieval Technology Demonstration at Tank S-112 (Per HFFACO milestone M-45-03C) by 3/31/05. DOE's obligation to complete interim stabilization of Tank S-102 shall be satisfied upon completion of Initial Waste Retrieval from Tank S-102. DOE's obligation to complete interim stabilization of Tank S-112 shall be satisfied upon completion of Full Scale Saltcake Waste Retrieval Technology Demonstration at Tank S-112.

In the event that DOE fails to complete one or more of the above HFFACO milestones by the required date, Ecology may not seek enforcement under this consent decree of the above HFFACO milestones. Rather, at Ecology's option, the requirement for interim stabilization of tanks S-102 and/or S-112 will no longer be in abeyance, and DOE will be required by this Decree to complete interim stabilization of the subject tank(s) within 18 months of Ecology's written notification of its election. Moreover, Ecology reserves any and all rights it may have to take enforcement or other action independent of this Consent Decree, by virtue of a failure by DOE to complete one or more of the above HFFACO milestones; Energy reserves any and all defenses it may have in response to any such Ecology action.

In addition, in order to allow DOE to accelerate retrieval of Tanks S-102 and S-112 prior to completion of interim stabilization, pumpable liquid remaining in those two tanks and liquid pumped to date from those two tanks shall not be counted in the calculation of the September 30, 2003 deadline in the following paragraph regarding 'percentage of pumpable liquid remaining to be removed' by that date.

\* Underlined text is the proposed amendment to the Consent Decree, to be inserted following the text not underlined, which is found on page 20 of the Consent Decree.